

Untitled

COMMONWEALTH OF MASSACHUSETTS

DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

DOCKET NO. DTE 98-57-PHASE III

TESTIMONY OF

WILLIAM D. SALVATORE

on behalf of AT&T COMMUNICATIONS OF NEW ENGLAND, INC.

DATED: July 10, 2000

TESTIMONY

WILLIAM D. SALVATORE

Q. PLEASE STATE YOUR NAME, BUSINESS ADDRESS AND PRESENT POSITION.

A. My name is William D. Salvatore and my office is located at 32 Avenue of the Americas, New York, New York. I hold the position of District Manager - Regulatory Affairs for AT&T. I am responsible for regulatory matters relating to AT&T's local market entry in New York and New England.

Q. WHAT IS YOUR EDUCATIONAL BACKGROUND AND WORK EXPERIENCE?

A. I received a BA in Political Science from Queens College C.U.N.Y. in 1973 and an MBA in Corporate Finance from Pace University in 1981, while working for AT&T. I was employed by AT&T Long Lines in 1980 and worked in the Engineering Department where I was responsible for conducting cost studies used to report the investment base to the Federal Communication Commission ("FCC"). This was followed by assignments of

Untitled

increasing responsibility in a number of disciplines including: cost studies, budgeting, financial analysis, access management and interconnection arrangements. I assumed my current position in 1996 in which I represented AT&T in negotiations pursuant to the 1996 Telecommunications Act in New York and several New England states. In addition, I currently hold the position of Chairperson of the Advisory Board to the New York State Universal Service Targeted Assistance Fund ("TAF").

Q. HAVE YOU PREVIOUSLY TESTIFIED IN ANY OTHER STATE REGULATORY PROCEEDINGS?

A. Yes. I have submitted testimony on behalf of AT&T in Massachusetts in the Price Floor Docket (Case 94-185-E); in Connecticut concerning SNET's Restructure Proposal (Case 94-10-05), the Investigation into the Pricing of Unbundled Network Elements (Case 96-09-22), the Investigation into SNET's Cost Studies For Other Unbundled Network Elements (Case 97-04-10), the Investigation into Recurring Costs for UNES (Case 00-01-02), the Unbundled Loop, Port and Interconnection Docket (Case 95-06-17), Status of Competition Investigation (Case 91-12-19), IntraLATA Presubscription Docket (Case 94-02-07), Unbundling Docket (Case 94-10-02) and Cost of Service Docket (Case 94-10-01); in Rhode Island in the Access Charge proceeding (Case 1995) and Unbundled Network Elements Docket (Case 2681); in New Hampshire concerning Bell Atlantic's Special Contract Price Floor proceeding (Case 99-018), NYNEX's Price Cap Proposal (Case 89-010) and Competition Docket (Case 90-002); in Vermont concerning Bell Atlantic's Special Contract Imputation proceeding (Case 6077), Incentive Regulation proceeding (Case 5700/5702) and the Competition Docket (Case 5713); and in New York regarding Universal Service/Access Reform (Cases 94-C-0095/28425); 1+ intraLATA Presubscription (Case 28425) and AT&T's Symmetric Regulation Petition (Case 94-C-0017).

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

A. The purpose of my testimony is to comment on Bell Atlantic- Massachusetts' ("BA-MA") tariff provisions in DTE MA No. 17, issued May 5, 2000, which preclude carriers that purchase BA-MA's unbundled network element platform ("UNE-P") from also purchasing facilities and equipment that would otherwise allow such carriers to simultaneously provide voice and digital subscriber line ("DSL") services over a single line.

Such provisions are discriminatory, anti-competitive and, most importantly, will harm consumers. The Department of Telecommunications and Energy ("DTE") should require BA-MA to remove such terms and conditions from the tariff and, thereby provide CLECs employing UNE-P the same opportunities to offer voice and data service packages to its customers over a single line that is now available to BA-MA.

Q. PLEASE DESCRIBE WHAT IS MEANT BY THE TERM UNE-P?

A. When CLECs purchase UNES such as loops, local switching, transport, signaling, and OS/DA, on a combined basis so that the UNES interoperate to provide telecommunications services, it is known as the UNE platform or UNE-P.

Q. ARE THERE ANY RESTRICTIONS ON THE SERVICES THAT CARRIERS CAN PROVIDE OVER UNE-P?

A. No. Both the 1996 Telecommunications Act ("ACT") and Federal Communications Commission ("FCC") prohibit the restriction of services that a carrier can provide to its customers over UNES, including combinations of UNES such as UNE-P. The Act itself defines the term "network element" to include the "features, functions, and capabilities that are provided by means of such [network element.]" (1) The Act also requires Incumbent Local Exchange Carriers ("ILECs") to provide "nondiscriminatory access" to their network elements so that competitive local exchange carriers ("CLECs") can use the network elements to provide any "telecommunications service" the CLEC seeks to offer. (2) Synthesizing these statutory requirements, the FCC's unbundling rule 307(c) states that:

An incumbent LEC shall provide a requesting telecommunications carrier access to an

Page 2

Untitled

unbundled network element, along with all the unbundled network element's features, functions, and capabilities, in a manner that allow the requesting telecommunications carrier to provide any telecommunications service that can be offered by means of that network element. (3)

The FCC has repeatedly held that this duty applies directly to CLECs' use of unbundled loops to provide advanced services. Since August 1996, BA-MA, like all other ILECs, has been under an obligation to provide unbundled access to loops capable of transmitting digital signals, such as those generally provided through DSL service. (4)

Q. WHAT IS DSL SERVICE?

A. DSL service or xDSL service incorporates the use of various technologies in order to transmit high-speed data services (such as always-on access to the internet at speeds many times faster than traditional 56kbps dial-up access) over copper twisted pair facilities commonly deployed by ILECs to provide loops. Sometimes the technology family is generically referred to as "xDSL", where the "x" denotes the fact that DSL service can be provided over different technologies with various speeds and characteristics. As part of its current tariff, BA-MA offers asymmetrical DSL ("ADSL") (5) which can be used in conjunction with plain-old telephone ("POTS") loops. The vast majority of loops employed in UNE-P currently can be used, or can be modified for use, by CLECs to serve residential end-users with both voice and ADSL capabilities provided over the same loop. (6)

Q. CAN BOTH DSL AND VOICE SERVICES BE PROVIDED SIMULTANEOUSLY OVER THE SAME BA-MA PROVIDED UNE-P OFFERING?

A. Yes. By adding certain electronics at the customer location (DSL modem) and in the ILEC central office ("CO"), the range of frequencies transmitted over a typical 2 wire residential loop can be separated or split to permit simultaneous transmission of data for DSL service (high frequency range) and for voice services (low frequency range). Thus, an end-user has available to him/her always-on high speed internet service utilizing a computer and voice service via telephone.

The technology which permits simultaneous transmission of data and voice over the same loop is known as line splitting. Line splitting is possible (with the restrictions noted in footnote 6) over loops whether they are provided by BA-MA as part of its retail service to its end-users or as a wholesale service to carriers who purchase stand-alone unbundled loops, UNE-P or purchase solely the DSL capability and not the voice capacity known as a line-sharing arrangement.

Q. WHAT EQUIPMENT AND/OR FACILITIES ARE REQUIRED AT THE CO TO ALLOW LINE SPLITTING?

A. In general, the equipment and/or facilities required at the CO to permit line splitting are splitters, splitter peripheral equipment and cross connection arrangements.

Splitters are equipment which split or separate the high (data) and low (voice) transmission frequencies of the loop, thereby permitting simultaneous data and voice transmission. (7) Peripheral equipment such as racks are also necessary to provide shelf space for splitters.

Cross-connections are necessary to connect the high frequency data signals to a CLEC's collocation arrangement for multiplexing and transmission over a data network (such as to an ISP for use of the world wide web) and for the voice signal to be connected to the ILEC's local switch for access to the public switched network ("PSN") (8). Inserting a splitter simply requires that BA-MA terminate the loop from the customer's premises to the splitter and then make the cross-connections as described earlier.

Q. DOES BA-MA OFFER THE NECESSARY CO EQUIPMENT AND FACILITIES IN THE INSTANT TARIFF FILING REQUIRED TO SUPPORT LINE SPLITTING?

Untitled

A. Yes. As part of its tariff filed May 5, 2000, BA-MA will insert a splitter on a loop that is currently employed to provide retail local service but it will do so only if the local voice service remains with BA-MA. This arrangement is commonly referred to as line sharing because the data service provider agrees to share the loop with BA-MA and only with BA-MA. Although the technical requirements to support line splitting are indistinguishable from line sharing, BA-MA has refused, to date, to provide line splitting capabilities in conjunction with a UNE-P arrangement.

Ms. Stern of BA-MA states as follows:

The FCC Order does not require Line Sharing on voice lines provided by CLECs utilizing UNE-Platform. In fact, the Order specifically said Line Sharing was not required on such lines. (¶72) The FCC Order only required Line Sharing where the ILEC is the voice provider. Since this proceeding concerns compliance with specific FCC requirements, the issue of UNE-P Line Sharing should not be addressed extemporaneously as part of this proceeding. (9)

Q. PLEASE COMMENT ON BA-MA'S RATIONALE FOR NOT PROVIDING LINE SPLITTING CAPABILITIES IN CONJUNCTION WITH ITS UNE-P OFFERING.

A. BA-MA's refusal to provide line splitting capabilities along with its UNE-P offering is based upon its self-serving interpretation of FCC 99-355 ("Line Sharing Order") released December 9, 1999, rather than any technical concerns. BA-MA will not permit UNE-P CLECs to purchase line splitting capabilities out of the same tariff that non-UNE-P data CLECs can purchase such functionality because BA-MA has not been ordered to do so where BA-MA is not providing the voice portion of the split data/voice service.

Q. WHY IS BA-MA'S INTERPRETATION OF THE LINE SHARING ORDER SELF-SERVING?

A. The FCC's Line Sharing Order was intended to address BA-MA's specific obligations with respect to a certain class of carriers, referred to as data CLECs, who seek only to provide competitive data services. BA-MA, however, attempts to extrapolate requirements from this narrowly focused order to restrict UNE-P CLECs from efficiently providing their retail customers with both voice and data services over a single loop. BA-MA's interpretation is discriminatory, anti-competitive and will limit consumers who wish to purchase both local service and high speed internet access over a single phone line.

Indeed, the nondiscrimination requirement that pervades the FCC UNE Remand Order stands in stark contrast to the unexplained language of the two sentences in the FCC Line Sharing Order relied upon by BA-MA. The FCC UNE Remand Order specifically affirms that CLECs have the right to fully utilize all the features, functions and capabilities of the unbundled elements that they acquire from the ILEC and the ILEC must provide nondiscriminatory support that permits the CLEC to do so. (10) Indeed, the FCC UNE Remand Order defines the unbundled loop to include all the attached electronics. (11) Taken together, these provisions support the reasonableness of AT&T's request that BA-MA support line splitting. Line splitting simply permits AT&T (or any other UNE-P CLEC) to fully utilize all the capabilities (i.e., both the low frequency spectrum and the high frequency spectrum) of the local loop provided as part of the UNE-P.

Q. WHAT MUST BA-MA DO IN ORDER TO PROVIDE LINE SPLITTING CAPABILITIES FOR UNE-P?

A. AT&T knows of no technological problems which would make it infeasible for BA-MA to provide line splitting capabilities in conjunction with its UNE-P offering. The technology used to provide line splitting on a loop used in a UNE-P arrangement should be no different than that used by BA-MA to provide data and voice to its retail end-users or in a line sharing arrangement with a data CLEC. In fact, although BA-MA claims that the physical arrangements may or may not be the same when BA-MA provides voice service in conjunction with a line sharing arrangement vis-a-vis when BA provides UNE-P in conjunction with a line splitting

Untitled

arrangement, (12) BA-MA does not claim that line splitting in conjunction with UNE-P is not technologically feasible, nor can BA-MA make such a claim. Therefore, BA-MA must be required to remove the prohibition in the instant tariff on UNE-P CLECs purchasing line sharing services, thereby allowing them to utilize BA-MA owned splitters deployed within BA-MA's central office space. (13)

Naturally, nondiscriminatory OSS procedures must also accompany the splitter deployment as well. As with other operational support and capabilities provided on behalf of CLECs, BA-MA would be compensated for its cost incurred according to the FCC-approved Total Element Long Run Incremental Cost methodology.

Q. WHY IS BA-MA'S REFUSAL TO PROVIDE LINE SPLITTING CAPABILITIES IN CONJUNCTION WITH ITS UNE-P OFFERING DISCRIMINATORY?

A. As explained earlier, BA-MA will provide line splitting in a line sharing arrangement. However, if a carrier wishes to provide voice services to its end-user via UNE-P along with DSL capabilities and, thereby compete directly with BA-MA, BA-MA will not provide line splitting capabilities.

There is no reason for this differential treatment of UNE-P CLECs compared to data CLECs.

Q. WHY IS BA-MA'S REFUSAL TO PROVIDE LINE SPLITTING CAPABILITIES ALONG WITH ITS UNE-P OFFERING ANTI-COMPETITIVE?

A. BA-MA's refusal to support UNE-P CLECs by performing line splitting will clearly put such carriers at a competitive disadvantage to BA-MA. While BA-MA will be capable of providing voice and DSL high speed internet service simultaneously over a single loop, a CLEC who wishes to serve its customers through the purchase of UNE-P from BA-MA will be denied such ability.

Thus, there are two unpalatable alternatives faced by UNE-P CLECs in these circumstances. First a UNE-P CLEC could forgo the UNE-P combination for those customers seeking both voice and data services on a single line. This means that for existing customers, the UNE-P CLEC would have to pay for a hot cut, i.e. disassembly of the loop from the UNE platform, and terminate the loop in a collocation space in order to access splitters for the sole purpose of reconnecting to BA-MA's local switch and, thereby gain access to the PSN. Such reconfiguration is not only costly and unnecessary but comes with the risk of service disruption. For new customers, the UNE-P CLEC would not be able to use a single simple order to establish service but, rather, would likely need to follow procedures that are much more complex, costly and yet to be tested.

Alternatively, if CLECs wish to continue to utilize UNE-P for voice and also provide DSL service, they will have no alternative but to require their end-users to incur the additional expense of purchasing a second line, i.e., one line for voice services and one line for DSL service. BA-MA, on the other hand, allocates zero loop costs to the provision of DSL service over its own split line and is not charging any of the recurring loop costs to DSL providers in a line sharing arrangement. (14) There can be little dispute that needlessly requiring a customer to buy a second line raises the cost, increases customer inconvenience and drastically diminishes the attractiveness of the CLEC offering compared to what BA-MA (and only BA-MA) can offer to most residential and small business customers.

Such impediments practically limit a UNE-P CLEC to solely providing voice services. That outcome, imposed solely by BA-MA's steadfast refusal to support line splitting, positions BA-MA with a dominant advantage over its competitors. BA-MA gains this advantage not by its prowess in a competitive market place, but because of its policy not to allow its potential competitors to purchase readily available line-splitting functionality. As such, BA-MA's refusal to support line splitting is anti-competitive.

Q. WHY WILL CONSUMERS BE HARMED?

Untitled

A. As explained earlier, consumers who wish to purchase a package of voice and DSL services from a UNE-P CLEC will incur additional costs either for disassembling the loop from the UNE platform or for a second line. (15) This is an untenable situation for both consumers and UNE-P CLECs. Any time consumer choice is artificially restricted by the actions of an ILEC, such as BA-MA, for no discernable reason but to gain a competitive advantage, consumers are harmed.

Q. PLEASE SUMMARIZE YOUR TESTIMONY.

A. BA-MA refuses to support line splitting for UNE-P CLECs out of the instant tariff and, therefore, precludes those carriers from offering voice and high speed DSL service over a single line. Because there is no technical limitation that justifies this policy on the part of BA-MA, its refusal to support line splitting for UNE-P CLECs is: 1) discriminatory because BA-MA provides equivalent support to itself and other CLECs in a line sharing arrangement; 2) anti-competitive because it unnecessarily restricts the ability of UNE-P CLECs to fully utilize the capabilities of the UNE-loop it purchases and thereby compete effectively with BA-MA; and 3) will harm consumers who wish to purchase such voice and data services over a single line because their choice of voice service provider will be, for all practical purposes, limited to only BA-MA.

As a result, the DTE should require BA-MA to remove such restrictions from its tariff and require that BA-MA promptly provide UNE-P CLECs with non-discriminatory support for line splitting.

Q. DOES THIS CONCLUDE YOUR TESTIMONY?

A. Yes it does.

1. 1 47 U.S.C. § 153 (29).

2. 2 47 U.S.C. § 251(c)(3).

3. 3 47 C.F.R. § 51.307

4. 4 Local Competition Order, 11 FCC Rcd 15499, 15691 ¶ 380

5. 5 ADSL service provides asymmetrical transmission speed from the end user to the internet (up to 640kbps) and from the internet to the end user (up to 6 Mbps) The higher transmission speed from the internet to the end-user allows faster downloading time.

6. 6 The loop being utilized must possess appropriate electrical characteristics. Fortunately, for ADSL, most loops currently can meet, or can be readily conditioned to meet these characteristics. In general terms the loop must be a continuous copper facility from the customer premises to the Central Office, be under 18kft in length, not have any load coils or excessive bridged taps and not traverse any digital loop carrier.

7. 7 Essentially the splitter is a passive set of filters. One set of filters permits only low frequency transmissions (i.e., voice communications) to exit the splitter over a set of wires connecting to the voice network. A second set of filters permits only high frequency transmissions to exit the splitter on a second set of wires connecting to a piece of equipment known as a Digital Subscriber Line Access Modem (or DSLAM). The DSLAM interoperates with compatible customer premises deployed electronics to manage the high speed data transmissions and to format the data into packets for hand off to a data network and to interpret packets received from the data network.

8. 8 The FCC does not require, as a general rule, that the incumbent LEC unbundle packet switching. Packet switching, under the current FCC rules, includes the CO deployed DSLAM that, as described earlier, is essential to providing voice and data

Untitled

service over the same subscriber loop. Thus, the UNE-P CLEC must provide its own DSLAM, whether by self-deployment or through a commercial arrangement with another CLEC, in order to offer a retail customer a voice and data "bundle."

9. 9 Direct Testimony of Amy Stern, Docket No. DTE 98-57, Phase III, dated June 14, 2000, PP 50-51.

10. 10 See e.g. FCC Third Report and Order on Local Competition, FCC 99-238 at ¶¶ 167 and 490.

11. 11 Id. FCC 99-238 at ¶175.

12. 12 See Direct Testimony of Bruce F. Meacham in the instant proceeding, dated June 14, 2000, P49 and Direct Testimony of Amy Stern, P10.

13. 13 BA-MA does not currently offer line-at-a-time splitting, but rather requires carriers to purchase an entire shelf of 96 splitters, known as shelf-at-a-time splitting, whether they need all of them or not. This procedure is inefficient and BA-MA should be required to provide line-at-a-time splitting. Such deployment is technically feasible and is offered by GTE, the company recently merged with BA.

14. 14 Meacham Testimony at p.49. Stern Testimony at p. 31.

15. 15 Such end-users will also suffer the inconvenience of arranging availability for a home visit by installers who require access to the home in order to provision a second line.